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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/818,603	03/28/2001	Toru Niki	35.C15232	1892
5514	7590	02/01/2005	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			GART, MATTHEW S	
			ART UNIT	PAPER NUMBER
			3625	
DATE MAILED: 02/01/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/818,603

Applicant(s)

NIKI ET AL.

Examiner

Geoffrey Akers

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/21/04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 10-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This action is issued in reply to applicant's amendment filed July 21, 2004
2. Claims 8-9 were canceled. Claims 1-7 and 10-18 were amended.
3. Claims 1-7, 10-18 as amended, are pending.

Claim Rejections - 35 USC § 103

4. Claims 1-7, 10-18 as amended, are rejected under 35 USC 103(a) as unpatentable over VanHorn(US Pat. No: 6,631,356) in view of Pallakoff(US Pat. No: 6,269,343).

The rejection as cited in the Non Final Office Action(Paper #) dated 2004 is incorporated herein and augmented for applicant's subsequent amendments to all the claims.

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5. Van Horn teaches that an online buying group(referred to as a co-op) is formed for the specific purpose of purchasing a particular product by defining a start time, end time, critical mass, any minimum number of units offered, any maximum number of units offered, starting price and product cost curve. As data is gathered from buyers, by means of their making binding purchase offers the co-op is modified using a pricing tool sop as to take into account for this market data in the definition of the price curve. A buyer chooses a product co-op of interest of interest. The buyer is presented with the following essential coop information: current price, closing time, next price level(defined by price curve visibility window and the price curve) sufficient to entice the buyer to

make an offer. Once a buyer has made the decision, an offer of a purchase price is formulated by him. This offer includes the current price, guaranteeing availability if critical mass has been achieved or to make an offer at a lower price range that can be accepted only if the co-op price drops to that level. Given a decision to make an offer at such lower price, the buyer enters such maximum price at which he is willing to purchase the product. Should the current price drop to the level at which the offer was made, the price contingency is removed from such offer and assuming critical mass is achieved the offer is accepted at the close of the co-op and processed accordingly. The inventory is allocated to fulfill the accepted offer following the closing of the co-op.(Abstract)(Figs 4-8)(col 6 line 65-col 10 line 20).In addition to that taught by Van Horn, Pallakoff teaches a group bulk purchase system(col 2 line 52-col 3 line 27) and a terminal connected to a network(Fig 1) and receiving means from the terminal(Fig 1/13) and updating means for updating purchases(Fig 4/45/46)(Fig 2/25) and notifying means for notifying the terminal(Fig 1/13).Pallakoff teaches a server(col 2 line 63) as well as a control means to accept payment(Fig 7/73/74/75). Pallakoff teaches the terminal having an ID which sends in request for a group bulk purchase(col 2 line 61-col 3 line 27) as well as updating the purchase states(Fig 6/68) and determining residual quantities after purchase(col 8 lines 22-62). It would have been obvious to one skilled in the art at the time of the invention to combine Van Horn in view of Pallakoff to teach the disclosure. The motivation to combine is to teach a method for online buying that aggregates demand and provides demand based pricing as enunciated by Pallakoff(col 1 lines 53-55).

Response to Arguments

6. Applicant's arguments are moot in view of the additional grounds of rejection necessitated by applicant's amendment to all claims.

Conclusion

7. **THIS ACTION IS MADE NON-FINAL.**

8. Any questions concerning this communication should be addressed to the examiner of record, Dr. Geoffrey Akers, P.E., who can be reached between 6:30 AM and 5:00 PM Monday through Friday at 703-306-5844. If attempts to contact the primary examiner are unsuccessful, the primary examiner's superior, Mr. Vincent Millin, SPE, may be telephoned at (703)-308-1065.

The fax number for Formal or Official faxes and Draft or Informal faxes to Technology Center 3600 or this Art Unit is (703)-308-3687. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)-308-1113.

September 25, 2004



9/25/04

DR. GEOFFREY R. AKERS, P.E.
PRIMARY EXAMINER